PWD 6 LBW 66 - Part I.

File No PW 29 LBW 66 -

MYSORE GOVERNMENT SECRETARIAT

Notes / Correspondence / Collection

Department M&I Section

Subject :— Water Rates Rules — Clarifications re. III Crop — Recovery of water rates from land holders :—

Earlier References :—

Later References :— PWD 91 LBW 75

4196 - F 5

5-9-1972
Indexed

(Classification A / B / C)

Notes pages 16
Correspondence pages 14
Per/Not for Section note Book
To be destroyed after 1982

27.11.67

5.9.72

B.S. Lady
Under Secretary to
Government.

/M. G. S.

Subject: WATER RATE RULES - CLARIFICATIONS REGARDING LEVY OF WATER RATE FOR SECOND CROP AND LAND HOLDER.

File No. PWD 6 LBW 66 (Part-I)

WD 01050—GPB—8,00,000 13-12-65

Receipt No. ID/550/67.

(1) Orders of the Secretary, P.W.D.

"This may be examined urgently and the papers put up on 28-11-1967".

Sd. (Ch)
Secretary, PWD. 24/11/67.

(2) The letter and its enclosures received from the Divisional Commissioner, Mysore Division, may be perused.

(3) The Divisional Commissioner has raised two points: They are: (1) Levy of Water rate for second and third crops raised in a year; and (2) collection of water rates from the land-holders.

(4) There is already a file ~~being~~ nearing No.PWD 6 LBW 66 on the subject, wherein the question of levy of water rates for the second crops raised in a year is examined. That file has been referred to Law Dept. on 20-11-1967.

(5) According to the Divisional Commissioner, the first crop in South Kanara District is raised with the aid of rain water and that the next "Suggi", though a second crop during the year, it is the first crop raised with the aid of irrigation works. The Mysore Irrigation (Water Rate) Rules, 1967, are crystal clear on the point that water rates are leviable only when water is supplied or made available. According to the Rules, when water is made available for the first time, crop grown from the aid of water supplied will be considered as first crop and the rates as prescribed in Rule 3(1) are levied. When water is again supplied for the purpose of growing second crop in the year, water rates as prescribed in Rule 3(2) are applicable. Therefore, there does not seem to be any doubt as to the interpretation of Rules 3(1) and 3(2). Therefore, the fact that the first crop is raised with the aid of rain water cannot be taken into consideration at all.

p.t.o.

2)

Subject: WATER RATE RULES - CLARIFICATIONS REGARDING LEVY OF WATER RATE FOR SECOND CROP AND LAND-HOLDER. *File No.* PWD 6 LBS 66 (Part-I) *M. G.S.*

(6) The question of levy of water rate for third crop is to be considered as there is no provision for such levy in the water rate rules. The remarks of other Divisional Commissioners and the Chief Engineer (General), the Chief Engineer, Irrigation (South) and the Chief Engr. Irrigation (North) may have to be obtained before introducing levy of water rates for third crop.

(7) The Divisional Commissioner has suggested that necessary amendments may be made so that water rates could be collected from the actual growers instead of the land-holders. According to Rule 4(1) of the Water Rate Rules, 1965, the water rates are payable by land-holders. As per Section 10(b) of the Land Reforms Act, the land-lord is responsible for the payment of land revenue, water rate, etc., But land-holder ~~as such~~ as defined in Section 2(f) of the Mysore Irrigation (Levy of Betterment Contribution and Water Rate) Act, 1957, signifies the person.....right to possession. Provided that.....such land". This definition appears to be sufficient to collect water rate from the tenants irrespective of Section 10 of the Land Reforms Act, 1961, which specifies the general rights and liabilities enjoined on land lord for purposes of determining the lands ~~hmg~~ leased to tenants. In ~~view of~~ this view of the matter, there does not appear to be any need to amend the provisions of either the water rate rules or the Land Reforms Act. However, Law Dept. may also be consulted.

A

Sec. P.W.D. (Copy) for info. enclosed

27/11/67

8) This may kindly be submitted to the Secy. P.W.D. in his perusal + orders. Ref. para 1 above

27/11/67

9) L.D may be Consulted on the matter.

Secy. P.W.D. 28/11 Pers No 5332 Date

Secy P.W.D

28/11/67

LD

M. G. S.

Subject: Water Rate Rules - clarifications

PWD 6 LAD 66 File No. (Part-I) (3)

Reg. levy of water Rate for Second Crop and land holders.

WD 01050—GPB—8,00,000 13-12-66

10) for favour of advice on the point raised by the Dy. Com. Mysore

Ch
29/11
CHANDAPPA PATEL
Secy. P. W. & Elecy. Dept.

WS 5332

L. D.

GOVT. SECRETARIAT 1967 BANGALORE

Kind attention is invited to Govt to LAD 2 OSR 66 d. 15.6.1967. The point on which L.D.'s opinion is required may be specified

Rest E.

F. L. F. Alvares 29/11/67
Under Secy., Law Dept.

Submitted. Sri M.L.D. 29.11.67.

29/11

12) The Law Dept. is requested to furnish their opinion on the points raised in para 7 ante. It is to be made clear whether as suggested by the Divisional Commr. the liability to pay water rate should be given on the actual cultivating tenant - whether the land holders have to be considered when there is sufficient provision as defined in Section 2(f) of the Mysore Irrigation (Levy of Betterment Contribution and water Rate) Act 1957.

GOVT. SECRETARIAT BANGALORE No. 4137 12 DEC 1967 P.W.D. (M.I.C.)

13) 29/11

1956 6 DEC. 1967

29/11/67 DS I LD

14) 15/11/67
M. CHANNAPPA
Dy. Secy. to Govt. P.W.D. (Legal)

16/11

Submitted. 16/11/67

15) Returned as desired

Rest.

E. F. Alvares
Under Secy., Law Dept.

4

Subject: Water Rate Rules - Clarification regarding levy of water Rate for Second Crop and Land Holder.

File No. PWD 6-B.006 Part I

M. G. S.

L.D. (Cell)
No 200 dt 3.2.68

Receipt No. 4293

16) R.D. File No. Mis. 305/LR/67 is placed below for perusal of para 5. N.F.

17) This subject was discussed in the Revenue Meeting held on 3.1.68. Extract from the proceedings may be taken & this file may be sent to R.D. for further action

10/1/68

Sent to R.D. with remarks. 11-1-68.

The file of R.D. has been returned today. Perused & noted.

10/1/68

Receipt No 269 from R.D.

18) R.D. has resented back the file No. RD. Misc. 305-LR67 with a request to further examine the case and offer remarks. Paras 12 to 14 of N.F. in R.D's file are for perusal.

Being Saturday submitted for information

3/2/68

31/1/68.

19) This may be marked to the Law Dept. for favour of remarks on para 12 ante. This file was required in connection with the meeting of the Dist. Commrs., D.C.s Belgaum & Dharwar &c. & this subject was discussed. Hence this is again referred to Law for favour of remarks.

Re para 13 ante.

2/2/68

20) [signature]

S. K. [illegible],
Under Secy., P.W.D. (Tech)

Reference:- paras 7 and 12 N/F.:—

3421

129

21) The only point referred for opinion (para 7) is, whether under the definition of 'landholder' or 'holder' in section 2(f) of the Mysore Irrigation (Levy of Betterment Contribution & Water Rate) Act, 1957 'a chalgenidar' of South Kanara district also is included. According to this definition, 'landholder' or 'holder' signifies the persons in whom a right to hold land is vested whether solely on his own account

200 3.2.68

M. G. S.

Subject: water rate rules -- clarification reg.- levy of water rate- for second crop and landholder.

PWD File No. 6 LBW 66 P.I

WD 01050—GPB—8,00,000 13-12-65

or wholly or partly in trust for another person or for a class of persons or for the public and includes a mortgagee vested with a right to possession. The proviso to the clause enumerates others who shall be deemed to be landholders. A mulgeni tenant in South Kanara district is included in the proviso and a 'chalgeni' tenant is not included. When it is considered that a chalgeni tenant is a person in whom a right to hold the land is vested, then he would be a person falling within the definition of the term 'landholder' or 'holder', as pointed out by the Public Works department in paragraph 7.

(21 The liability of the chalgenidar in respact of water rate under the Act would be inconsistent with the provisions contained in section 10 of the Mysore Land Reforms Act, 1961 according to which, the landlord shall be responsible for the payment of the land revenu water rate and all other taxes, cess or fee payable to the government in respect of the land. Whether any change in this provision is necessary and if so, to what extent and in what manner it may be made, are matters for consideration by the revenue department.

B.K. Murudappa

(B.K.MURUDAPPA) 20/2/68
Addl. Law Secretary.

21.2

570/als/68

P.W.D.)

22) The above remarks of the Law Dept. are forwarded. The LD have observed that it is for the Rev. Dept. to say to what extent and in what manner, the changes in the Irrigation Act may have to be made.

23) The Rev. Dept. may be requested to indicate the changes to the Law Dept. this Dept if necessary.

24) 25)

G.O.I. SECTION
Dy. No. 7746
Date 22 FEB 1968
Section SM

to the trade.

6)

Subject: Wolei Gale Rules — File No. MD 6 CSW 6/5 M. G.S.

Charter of Wolei Gale — for [illegible]

from the actual possessor. —

This may now be marked to Revenue Dept.

24 Sir K

R.D. (L) No 1291 Date 27/1/68

R. & L. SECTT. R.D. No. 1041 Date 29 FEB 1968 Section

Reference paras 21 to 23 A.F. 25 —

This may be marked to Land Reforms Section.

28.2.68.

26/2/68 Land Reforms

29.2.68

N. J. E. BRITTO,
Under Secy., Rev. Dept.

R D. (L.R.) 68
No. 267 Date 29/2/68

M. G. S. | Subject: Water Rates Rules — Collection of water rates from the dental growers | File No. PWD 6 LBW 66 Part-I

WD 01050—GPB—8,00,000 13-12-65

Flag K

26 According to the existing provision in Rule 4(1) of the Water Rate Rules, 1965, the water rates are payable by land-holders. A suggestion has been made by the Divisional Commissioner, Mysore that the levy and collection of water rate may be on and from the actual cultivator (Tenant), as distinct from the owner of the land. The P.W.D. and the Law Dept. have examined this suggestion and their opinions may please be perused in paras 7 and 21 ante respectively. — para 21 and 7

2 & 2-3/c

27 The Law Department has opined that the liability of the chalgenidar in respect of water rate under the Mysore Irrigation (Levy of Betterment contribution and Water Rate) Act, 1957 would be inconsistent with the provisions contained in Section 10 of the Mysore Land Reforms Act, 1961.

28 Section 10(b) of the Mysore Land Reforms Act reads -

> "the landlord shall be responsible for the payment of land revenue, water rate and all other taxes, cesses or fees payable to the Govt. in respect of the land".

The word "landlord" is defined in Section 2(20) to mean a person who has leased land to a tenant and includes a person entitled to receive rent from a tenant. The terms "land-owner" and "Permanent tenant" are also defined in Section 2(21) and 2(23) of the Mysore Land Reforms Act, 1961 respectively. If all these definitions are read together, it becomes clear that the definition of the terms "landholder or holder" given in Section 2(f) of the Mysore Irrigation (Levy of Betterment Contribution & Water Rate) Act, 1957 is not in keeping with the definitions of the terms "land-owner" and "permanent tenant" given in Section 2(21) and 2(23) of the Mysore Land Reforms Act, 1961.

4 Flag K

PTO.

Subject: Water Rate Rules - Collection of water rates from the actual growers. File No. Plot) GLR(W) 65 M. G.S. Part-I

For solving this difficulty, it appears necessary 28
to amend Section 10(b) of the Mysore Land Reforms Act, 1961 so as to delete the words "water rate" therefrom and also to amend the definition of the terms "Land-holder or holder" appearing in Section 2 (f) of the Mysore Irrigation (Levy of Betterment Contribution and Water Rate) Act 1957 in such a way that the actual cultivating tenant whether such a tenant be a permanent tenant, protected tenant or any other person who is a deemed tenant under Section 4 of the Mysore Land Reforms Act, 1961 is included therein.

The implications of the proposed amendment to make 29
the tenant liable to pay 'water rate' will be that the landlord will stand to gain to that extent as the rent payable by the Tenant to the landlord is related to the gross produce of the land and not to the net yield from the land. As the Land Reforms legislation is intended especially for the benefit of the actual cultivators (tenants), it may not be desirable to amend Section 10(b) as proposed above so as to give benefit to the landlord, although the landlords as a class will disappear in due course of time, with the implementation of the provisions of the Mysore Land Reforms Act, 1961, leaving a few catagories of persons falling in the landlord class. This Dept. may not also agree with the view expressed by the P.W.D. as at 'A' in para 7 ante of its note. The provision Section 2(f) of the Mysore Irrigation (Levy of Betterment Contribution and Water Rate) Act, 1957 will have to be so amended as to make the Land-lord liable to pay the water rate wherever there are cultivating tenants. The suggestion

Contd....next page.

M. G. S. | Subject: Water rate - Selection of - from land holders | File No. PWD 6 LRW 66 Part-I

R.D. (L.R.)

No. 267 Date 1/3/68

I agree

of the Divisional Commissioner, Mysore is not acceptable to the Revenue Dept. May be returned to the P.W.D. with this note.

1/3/68

Dy. Sy., R.D.
No. 2098 Date 7-3-68

30) Pa f.o. perusal before Retransmitting these Papers to P.W.D.

7/3/68
(D. M. VENKATARAMAIAH)
Dy. Secy. Rev. Dept.

OFFICE OF THE MINISTER FOR REVENUE & FORESTS BANGALORE. No. F. 1358/68 Date - 7 MAR 1968

Hon'ble Rev. Min.) 31) I agree with the noting in para 29.

9/3/68
B. RACHAIAH
Minister for Revenue & Forests.

D.S. Rev.

P.W.D

32)

12/3/68
(D. M VENKATARAMAIAH)
Dy. Secy. Rev. Dept.

10776
12 MAR 1968
Secretariat, Bangalore.

50

PWD (Cpl. Irrgn). No 744 Date 13.3.68

33) The above remarks of the Rev. Dept. may please be perused in conjunction with the opinion of the Law Dept. made at para 21 ante. The Rev. Dept. have stated that the suggestion of the Divisional Comm. Mysore is not acceptable to them. They have suggested that the provision in Section 2(f) of the Mysore Irrigation (Levy of Betterment Contribution

p.t.o.

10

Subject: Water Rates Rules — Collection of Water Rates from the Defaulting Growers — **File No.** RD 6 CAS 66 Part I fresh — **M. G. S.**

WD 01050—GPB—8,00,000 13-12-65 — **L.D. (Opn. [I])** **No** 598 **Date** 2-4-68

and Water Rate) Act 1957 are have to be so amended as to make the Canal Cess Ceiling to pay the Water Rate. The Legislation of the Revision Commission to fix the Ceiling to pay Water Rate on the defaulting Cultivating Tenants (beneficiary) for orders.

34) 13/3/68 If the opinion of the RD is accepted, the Act will have to be amended

DS) L.D may kindly see the notes of 13/3 35.

RD in paras 26 to 29 of CIN. W.r. to notes in para 21 of CIN. and Suggest whether it would be really necessary to ammend the section 2a(f) of the Mysore Irrigation (Levy of betterment Contribution and water rate) Act 1957 so as to make the Land-Lord liable to pay the water rates instead of the tenant.

2/4/68.

M. CHANNAPPA

L.D)

36) What exactly is the proposal of the Adm. Dept. — i.e. by whom, according to the Adm. Dept., the water rates should be repaid, may be kindly clarified & confirmed.

PWD

Ex. to Govt. P.W.D. (Irrn.) Dis. No. 598 dt 2-4-68 (By order)

Edwards 1.F.L. 10/4/68 Under Secy to Govt. Law

11/4

6/4

R. & I. SECTION LAW & P.A.DEPT. No..... Dt. - 2 APR 1968 Secn. Off. 2

R. & I. SECTION P. W. & L. D. No. 15386/67-4 Date 1 APR 1968 Section Officer

M. G. S. | Subject: WATER RATE from Land holders File No. PWD 6 CMS 6 part 7

WD 01050—GPB—8,00,000 18-12-65

37) The remarks of the Law Department at para 36 ante may kindly be perused. They have requested to intimate what exactly the proposal of the administrative Dept. is, and what are the points on which clarifications are required by L.D.

I. h
1069 L.D. 15.4.68

38) The facts of the case are the following:-

The Divisional Commissioner Mysore Divn. in his letter dated 22-11-67 (vide pages 1 to 3 ante) has suggested, among other things, that necessary amendments may be made in the Mysore Irrigation Act, so that water rates could be collected from the actual growers instead of land holders.

According to rule 4 (1) of the Mysore Irrigation (Water Rates) Rules 1965, water rates are payable by land holders. In accordance with section 10 of the Mysore Land Reforms Act . the laibility to pay water rates lies on the land lord.

The ~~proposal of~~ suggestion made by the D.C.South Kanara which is supported by the Divisional Commissioner, Mysore is, that it does seem more equitable to demand water rate from the actual beneficiary who is the tenenat cultivator on the tenented lands. Such a demand can only be made if the definition of land holder in the Mysore Irrigation (Levy of Betterment Contribution and Water Rate) Act, 1957 and the related provision made in the Mysore Land Reforms Act, is amended so as to include the cultivating tenant.

vide paras 26 to 31 ante JCIN

The Revenue Department who were consulted in the matter have opined that the above suggestion of the Divisional Commissioner is not acceptable to them, and instead they have suggested that P.W.D. may take action to amend the Mysore Irrigation Act, suitably so as to make the land lord liable to pay water rate.

P.T.O.

12)

Subject: Water rates collection of - from land holders

File No. PWD 6 LBW 66 Pt.I **M. G. S.**

L.D. (Opn. II)
No 765 **Date** 1.5.68

39) In view of the above divergent opinion of the Revenue Department, the Law Department is requested to advise whether it would be really necessary to amend Section 2 (f) of the Mysor Irrigation (Levy of Betterment Contribution and Water rate) Act, 1957, so as to make the land-lord liable to pay the water rate instead of tenant so as to be in conformity with the provision of the Mysore Land Reforms Act,1961 (i.e. Section 10(b)).

414/DJ
25.4.68

40) With the above note, this may now be marked L.D. with a request to offer their remarks in the matter.

D-S (L.D.)
Sri Ramaswamy

41)

Opinion) MML 27/4

42) While the P.W.D. wants it to be provided that the actual beneficiary should be liable for water rate, the R.D. wants that only the landlord should be liable. What amendments may be made is a matter for administrative decision. If it is decided that only the landlord should be liable to pay the levy under the 1957 Act, then it will be necessary to suitably amend section 2(f).

L.D. (Opn. II)
No 765 Dated 1.5.68

21090
Explanation

(B.K.MURUDAPPA)
Additional Law Secretary.

P.W.D.

2104/als/68

43)

1548 24/5/68

Note Continuation Sheet

Subject... Water Rates Rules — Collection of water rates from Land Lords

File No. PWD 6 CAV 66 part V

References and markings	Notes and Orders	Para Numbers

44) Notes in paras 37 to 42 of C/N. and also RD's opinion in paras 26 to 31 of C/N. may please be perused w.r.to rule 4 (1) of Mysore water rate rules. The word Land-Holders means the owner of land. But RD is of the opinion that word land holder does not mean the owner of the land, hence they want the rule to be ammended so as to make the land Lord liable to pay the water rate instead of the beneficiary. RD have desired the decision of the Administrative department. Since RD wants only Land Lord is to be liable P. WD may agree and ammend the rules for perusal and approval

vide flag 'K'

Pleasing speak

Jt. Secy. PWD. No 2392 Date 25/5

Jt. Secy P. WD

25/5/68

M. CHANNAPPA

Dy. Secy. to Govt. P.W.D. (Admn.)

Secy. PWD. No 3755 Date 25/5

Secy P. WD

45)

G. V. VENKATA RAMU,

14)

Note Continuation Sheet

Subject Levy of water rates — Collection of water rates — from the ayacut lands —

PWD 6 (Misc) 66
File No. Part

WD 016538—GPB—8,00,000—17-5-

Reference and marking	Notes and Orders	Para Number

46) Sp. Secy. P.W.D. may kindly see these papers. May we discuss the subject before a final decision is taken, on the issues raised by the Fin. Com. Myore. 27.5.68 after our discussion if it is convenient to Dr. I will go over to his room for discussion.

C.R.

Sp. R.S.

CHANDRASEKHAR
Secy. P.W.D. & Elec. Deptt.

PWS3755

V. urgent

47) This was discussed today (27.5.68) with the Secy., P.W.D. and Electricity Departments. Draft, ~~as dictated~~ ~~and~~ placed in the file may be issued, by the P.W.D Secretary, with due higher approval as may be found necessary.

(M.S.Swaminathan),
Commr. for Land Reforms &
Ex-Officio Revenue Secy.
27/5/68

27/5/68

Secy. PWD. 11/6
No 4420 Date

D.S. PWD (Irrgn.)
No 11063 11/6/68

(Secy, P.W.D)

Commr. & Rev. Secy.
No. 2685 Date 10/6/68

(1)

11/6

Initialing space

M. G. S.

Subject: Levy of water-rates — Collection of water-rates — from the cultivating tenants —

PWD 6 Rows 66 File No. Part-I

115

50) The charges proposed by the Rev. Secretary in consultation with the Secy for the places at page 10 C.7 is in general approved.

The two points-raised in the above letter are the following:—

i) ~~Water-rates on lands of the Inam-Corp is from which basis water, whether the said water from an irrigation source.~~

It is clarified that Inam crop from irrigated lands is not liable for water-rates & that the non-irrigated crop raised with the said water shall be liable for water-rates as per the normal crop

ii) As regards amendments to the Irrigation Act in fixing the liability to pay water-rates on the cultivating tenants, it is stated that no such amendments are necessary

51) The charges may be approved.

11/6/66

Ex. Engr. PWD. IV/30 52 Dated 12/6

Secy. PWD. 13/6. No 41/66 Date

53) G. V. VENKATARAMU. Jt. Secy. P.W. & Elec. Depts.

52) 14/6

54) The draft at page 11 which

151

Subject : **File/No.** PWD 6 CAS 66 Part-I **M. G. S.**

WD 01050—GPB—8,00,000 13-12-65

has been prepared after a discussion with the Revenue Secy. may kindly be seen before issue. PWS 4/96 DS(E)

F.S.

C.M.

CL

L&C 6

CHANDAPPA PATEL
Secy. P. W. & Elecy. Deptt.

55) 15/6

M. VEERARAJURS,
Finance Secretary to Government.

56) 23/6

VEERENDRA PATIL
Chief Minister.

Secy (P.W.D.)

Secy. to F.D.
No. 5133 Dated 15/6

57) CL 14/6

58)

ISSUED
Dated 29-6-68

Chief Min.
No. 982 Dated 18-6-68.

Submitted.

DN
[May be kept in the personal file]

Sec. Fin. D.T.
No. 603 Dated 17/6

May be recorded as Class B.

4/9/72

9/9

D. S. PWD (Elecy.),
No. 12262 Dated

25/6

Secy
15.6.68

EXPRESS DELIVERY

By E.P (P.C.P)

URGENT

CERTIFICATE OF POSTING OBTAINED

Government of Mysore

No.IRR.102.C.6804/ 67-68. (Encls one only)

Office of the Divisional Commissioner, Mysore Division, Mysore-5, dt:22-11-1967.

To

The Secretary to the Government of Mysore
Public Works Department, P.B.No.346,
'Vidhana Soudha', Bangalore-1.

Sir,

Sub:-Mysore Irrigation (Levy of Water-Rate) Rules 1965 - Certain clarification - requested.

Ref:-Ref.No.A11.668/66 dated 19-10-1967 from the Deputy Commissioner, South Kanara District.

I enclose a copy of the letter cited. The Deputy Commissioner, South Kanara has sought instructions (1) in the matter of levying water rate for the second and third crops raised in his district and (2) in the matter of collecting water rate from the land-holders. He states that the first crop in his district is raised with the aid of rain water and therefore no water rate is leviable - - in respect of that crop. It is stated that the next "Suggi" crop though a second crop during the year, it is the first crop raised with the aid of water from irrigation works. Since the Water-Rate Rules lay down different rates for water supplied for the second crop, the Deputy Commissioner has sought instructions in the matter of levying water-rate for the second crop raised in his district. He points out that the levy of water-rate at the higher rates prescribed in Rule 3(1) will cause hardship to the land holders as the yield from the second crop will be lower than the first crop. He also adds that the third crop raised in his district is only a chance crop and that no water rate need be levied on it.

The working of clause 3(2) of the Mysore Irrigation (Levy of Water Rate) Rules, 1965 as amended in Government Notification No.G.S.R. 356 dated 3rd August 1967 is rather dubious. It permits of the interpretation that the rate contemplated in clause 3(2) is applicable only in the case of a second crop grown on the land which has received water from an irrigation work for both the first and second crops. It

p.t.o.

it is also possible to argue that the rate is applicable to the second crop grown on any land whether it received water from the irrigation work for the first crop or not. The rates leviable under clause 3(1) are higher than the rates leviable under clause 3(2). Considering the returns from the second crop, as pointed out by the Deputy Commissioner, South Kanara, it seems fair to permit the levy of the rates under clause 3(2) and not the rates under clause 3(1) for the second crop on the lands in South Kanara which do not receive water from an irrigation work for the first crop which is a rain-fed crop. It is for orders of Government whether the Deputy Commissioner, South Kanara may be advised accordingly.

As for the third crop, there is no specific rate indicated in the Water Rate Rules. In the absence of any other rate the rate under clause 3(1) may be held to be applicable. But, this would mean a greater hardship to the ryots there, as the third crop, which may be grown is a chancy crop and will not warrant the levy of the first irrigated crop rates. The Deputy Commissioner's suggestion that the third crop wherever it is grown even though it happens to be one of the scheduled crops and uses water from an irrigation work should be exempted from the levy of water rate. I would, however, suggest that the rates under Clause 3(2) may be made applicable to these crops also -- because these crops are grown utilising the water from an irrigation work and though the yield may not be very high it cannot escape water rate completely. As invariably, in such cases mechanical contrivances are used the actual levy will be 50% of the Scheduled rates. The extent of such III Crop land is very limited and Government may not stand to lose much by the concession pn proposed. In addition, it will be putting a premium on ryots who put their lands to the best possible use to step up agricultural production.

As regards the Deputy Commissioner's suggestion for an amendment of Rule 4(1) of Water Rate Rules so as to permit the levy and collection of water rate on and from the ~~owner~~ actual grower (tenant) as distinct from the owner of the land, this will conflict with Section 10 of the Mysore Land Reforms Act according to which the liability to pay water-rate is definitely on the land-holder. It does n seem more equitable to demand water-rate from the actual beneficiary who is the tenant-cultivator in tenanted lands. Such a demand can only be made if the definition of land-holdor in the Mysore Irrigation (Levy of Betterment Contribution & Water-rate) Act and in the Mysore Land Reforms Act is

Contd..p,3

is amended so as to include the cultivating tenant. This is also justified from the fact that there is no provision to enhance the rent where it is fixed by contract on account of additional produce raised by the tenant by using water from an irrigation work (vide Sec.8 of the Mysore Land Reforms Act.)

It is true that with the full implementation of Land Reforms all tenancies are likely to come to an end. But the problem will remain for quite some time and even after full implementation of the Land Reforms there will be certain - - tenancies which are contemplated in the case of minors, widows, a soldier etc., vide Section 5 of the Mysore Land Reforms Act. So, it is necessary to take a decision about this point raised by the Deputy Commissioner, South Kanara. My personal view is that the liability to pay water rate should be fixed on the actual cultivating tenant and making it clear that the fair rent payable to the land lord shall not be enhanced on account of additional production resulting from the use of water from an irrigation work.

Pending clarification of the above points, the Deputy Commissioner, South Kanara finds it difficult to levy or collect water-rate. Hence, I would request you kindly to obtain urgent orders of Government in the matter.

Yours faithfully,

M Swaminathan

(M.S. SWAMINATHAN),
DIVISIONAL COMMISSIONER,
MYSORE DIVISION.

22/11/67

be justifaible. It has therefore to be presumed that water rate as given in the table appended to rule 3(2) has to be adopted for the IInd paddy crop(suggi) and for the III crop no water rate need be levied since no rate has been prescribed under the Rules.

However, a clarification may kindly be obtained from the Government as to whether the rates as given in the table appended to Rule 3(2) could be adopted for the II Crop and the III paddy crop exempted from the levy of water rate.

II. (1) Under Rule 4(1) of the Mysore Irrigation (Levy of water rate)Rules, 1965, the water rate has to be levied from the 'Land Holder'. The word 'Landholder' has been defined under Section 2(f) of the Mysore Irrigation (Levy of Betterment Contribution and water Rate)Act 1957. It reads as follows:-

" Land holder"z or "Holder" signifies the person in whom a right to hold land is vested, whether solely on his own account,or wholly or partly in trust for another person or for a class of persons or for the public and includes a mortgagee vested with a right to possession.

Provided that in respect of any land in the possession of a valavargadar,Kayamgenidar, a permanent tenant or a mulgenitenant in the South Kanara District, such valavargadar, Kayamgenidar, permanent tenant, or mulgeni tenant as the case may be shallbe deemed to be the land holder in respect of such land"

From the above definition, it has to be inferred that water rate can be levied only on Kayamgenidar,Permanent tenant or Mulgeni tenant or Registered holder and not on the actual cultivator or a chalageni tenant. In other words, water rate has to be collected from the landholder in respect of chalgeni tenants.

In this District, there are very few irrigation works. The tenants raise II and or III crop in the river-side fields either by baling water from the rivers or putting up temporary dams across channels and stream and diverting water through small channels to the fields. The land holder cannot claim any additional rent in respect of any additional crop raised by the tenant by his own efforts. If water rate is to be levied on the landholder, he would certainly protest against the payment. Moreover,such levy of additional tax on the landholder when he has not been actually benefitted by the additional crop may not meet the ends of justice. Further even water license fee is being levied on the tenants/e in this District under the provisions of B.S.O. wherever he is the beneficiary.

In view of the above reasons, it is submitted that water rate has to be levied on the beneficiary and not on the 'Land holder' only.

In order to obviate the difficulty, the following amendment to Rule 4(1) of the Mysore Irrigation(Levy of water Rate)Rules, 1965, is suggested.

For " Land holder " appearing in line 2 of Rule 4(2) read " Land Holder or beneficiary"

In the alternative, in proviso to Sec. 2(f) of the Mysore Irrigation(Levy of Betterment Contribution and Water Rate)Act, 1957 the words "chalgeni Tenant" may be incorporated. This, of course, needs legal advise and if there is no legal bar for such an amendment it may be done.

Yours faithfully,

x x x

Sd. (H.L.Nage Gowda.)
Deputy Commissioner,S.K.

For Deputy Commissioner,S.K.

Copy to All.

M.S. Swaminathan,
Divisional Commissioner,
Mysore Division, Mysore.

Dated 9-2-1968.

D. O. Letter No. IRR. 102.C.6804/67-68.

Dear Sri Chandappa Patel,

Sub:-Mysore Irrigation (Levy of Water-rate) Rules, 1965 - Certain clarifications - requested -

Ref:-(i) This office letter of even number dated 22-11-67 addressed to Government.

(ii) Letter No.668/66.A11 dated 29-1-68 of the Deputy Commissioner, South Kanara District, Mangalore.

Please refer to this office letter cited first.

Clarification sought from Government in the matter of levying water-rate for the second and 3rd crops in South Kanara District and collecting water-rate from the actual beneficiaries, instead of the landholders, has not yet been received. In his letter cited 2nd, the Deputy Commissioner, South Kanara points out that the work relating to levy of water-rate is held up for want of clarification sought in his letter dated 19-10-67. I therefore request you kindly to obtain and communicate Orders of Government on the several points raised in my letter cited first, at an early date.

Yours sincerely,

SHRI CHANDAPPA PATEL,
Secretary to the Govt. of Mysore,
Public Works and Electricity
Department, 'Vidhana Soudha'
B A N G A L O R E-1.

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Draft.

D.O.No.PWD 6 LBW 66 /Pt.I

Dear ~~Shri~~ Sri,....

Sub:- Mysore Irrigation (Levy of Water rate) Rules, 1965 - certain clarifications.

******

~~Please~~ Kindly refer to your D.O. letter No. IRR.102.C.6804/67-68 dated 9-2-1968 on the above subject. The matter has been referred to the Department of Law and Parliamentary Affairs for their opinion. ~~as it involves some legal implication~~ Soon after the receipt of ~~legal~~ opinion from LD. ~~of in the matter~~ a further communication clarifying the points raised by you will be made to you.

Yours sincerely,

Shri, M.S.Swaminathan,
Divisional Commissioner,
Mysore Division,Mysore.

Copy of the above is forwarded to the Secretary to Government, Department of Law and Parliamentary Affairs for information. It is requested that this Department file bearing No.PWD 6 LBW 66 Pt.I. relating to the above subject which was referred to that Department on 3-2-1968 for their opinion may please be expedited.

SECRETARY TO GOVT.
P.W.& E.

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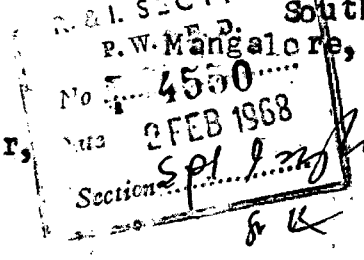
Ref C No ~~2311~~ 668/66 All

Office of the Deputy Commissioner,
South Kanara,
P.W.Mangalore, dated 29-1-1968



PWD (Spl. Irrgn).
No 331 Date 3/2/68

To

The Divisional Commissioner,
Mysore Division,
MYSORE.

Sir,

Sub: The Mysore or irrigation (Levy water Rate) rules 1968 certain clarification requested.

Ref: 1) This office Ref C No 668/66 All dated 19-10-67
2) Divisional Commissioner's letter No IRR 102-C 6804/67-68 dated 22-11-1967

I invite kind reference to the correspondences cited and request that orders received if any in the matter from the Government may kindly be communicated so or to enable this office to take further action in the matter of levying water rate Is not the Government may be requested to issue urgent clarification in the matter The work relating to the levy of water rate is held up as the rate at which it has to be levied on II and III paddy crops is not provided under the Rules.

Sd/-
H L NAGE GOWDA,
Deputy Commissioner,

For Deputy Commissioner.

Copy submitted to the Secretary to the Government,
P W D P B No 346,
Vidhana Soudha Bangalore-1.

10 7

GOVERNMENT OF MYSORE

No. IRR 102 C 6804/67-68

Office of the Divisional Commissioner,
Mysore Division,
Mysore-5. Dated: 4th April, 1968.

To

The Secretary to Government of Mysore,
Public Works Department, P.B.No.546,
"Vidhana Soudha," BANGALORE-1.

Sir,

Sub: The Mysore Irrigation (Levy of Water-rate) Rules 1965 - Certain clarification - requested.

Ref: This office letter of even number dated 22-11-1967 and subsequent reminders dated 9-2-1968.

2. Government letter No. PWD 764/Spl.68 | 16LBW68. dated 27-3-1968.

P.1 File No. PWD 6 LBW 66 Part-I.

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I invite reference to this office letter cited first, in which certain clarifications have been sought from Government in the matter of levying water-rate for the second and third crops raised in South Kanara District and regarding collection of water-rate from the actual beneficiaries, instead of landholders. In this connection, reference is also invited to the Proceedings of the Meeting held on 3-1-1968, when these points were discussed under subject Nos. 4 and 5. Orders of Government on the points raised are still awaited.

I, therefore, request you kindly to obtain and communicate orders of Government on the several points raised in this office letter cited first, at an early date, as the work relating to the levy of water-rate in South Kanara District is held up for want of the same.

Yours faithfully,

(M.B. BOMMAIYA),
for Divisional Commissioner,
Mysore Division.

MR: 3.

DRAFT

To

The Divisional Commissioner,
Mysore Division,
Mysore.

Subject: Mysore Irrigation (Levy of Water Rate) Rules, 1965 - certain clarifications

Sir,

Adverting to your letter No.IRR.102.C.6804/67-68, dated 22nd November, 1967, I am directed to ~~say~~ state that the points raised in regard to the levy of water rate on the first, second and third crops grown in South Kanara District have been carefully considered. Government are of the view that the rate of levy for the crops grown with the aid of water from an irrigation source in the District shall be according to Section 4(2) of the Mysore Irrigation (Levy of Betterment Contribution) and Water Rate Act, 1957, and the Rules framed thereunder without taking into account rain-fed crop. In other words, when the first crop is grown with rain water no water rate is leviable. When a subsequent crop is grown with the aid of water from an irrigation source, the second crop shall be liable to pay the water rate leviable for the first crop and the subsequent crop grown with the aid of water

PTO:

from irrigation source shall be liable to pay the rate prescribed for the second crop.

As regards the suggestion made by you to make certain amendments so as to fix the liability to pay water rate on the cultivating tenants, it is considered that no such amendments are necessary.

Yours faithfully,

(~~M.S.Swaminathan~~).

27/5 6/6/68

Copy of Bombay is forwarded to
1) Madras Govt. Secy
2) ——— Belgaum } for information
3) ——— Gulbarga
4) Addl. D.C.S.
Copy to R.O.

GOVERNMENT OF MYSORE

MYSORE GOVERNMET SECRETARIAT
VIDHANA SOUDHA, BANGALORE-1.
POST BAG NO.

Date June 21, 1968.

RD 62 EWR 68

FROM

Secretary to the Government of Mysore
Revenue Department.

To

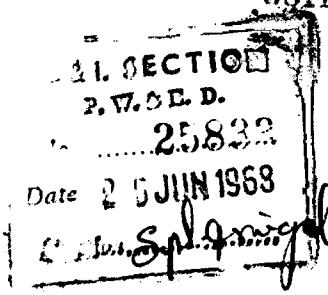
The Deputy Commissioner,
South Kanara District,
MANGALORE.

Sir,

Sub: Levy of Water rate in South Kanara District - order of Government Solicited

...

I am directed to inform you that the matter is under consideration of Government in the Public Works Department and the orders will be communicated to you by that Public Works Department in due course. Further Communications, if any, on the subject may be addressed to the Secretary to Government, Public Works Department.



Yours faithfully,

(N.J.E. BRITTO.)
Under Secretary to Government,
Revenue Department.

Copy to Public Works Department, File No. PWD. 6 LBW 66-II.

ps;

LW ...
...1922 ... 27-6-68.

R. SRINIVASAN,
Divisional Commissioner,
Mysore Division, Mysore.

Mysore-5.
Dated 12 June, 1968.

D. O. Letter No. IRR. 102 C 6804/67-68.

Dear Shri Chandarpa Patel

Sub: The Mysore Irrigation (Levy of Water rate) Rules 1965 - South Kanara District - Certain clarification requested

Ref: i) This Office letter of even number dated 22-11-1967 and subsequent reminders.
ii) Government letter No. PWD 764 SPL 68 dated 27-3-1968 addressed to this office.

I invite your reference to this office letter of even number dated 22-11-1967 and subsequent reminders dated 9-2-1968, 4-4-1968 and 8-5-1968 on the subject.

The clarification regarding the levy of water rate for the second and third crops raised in South Kanara District and collection of water rate from the actual beneficiaries instead of land holders, has not been received yet, though the matter was discussed at the meeting held in your Chambers on 3-1-1968 and certain decisions were arrived at. In this connection, I wish to point out that the levy and collection of water rate in South Kanara District is held up for want of clarification from Government on the above points.

I, therefore, request you kindly to look into the matter and see that the clarifications sought from Government in this office letter dated 22-11-1967 are issued urgently, since the collection of water rate in the South Kanara District is practically held up.

Yours Sincerely,
R. Srinivasan
12.6.'68

SECRETARY TO GOVERNMENT
No DD 1309
Date 13 JUN 1968
PUBLIC WORKS & ELECTRICITY DEPT.

Shri Chandappa Patel,
Secretary to Government of Mysore,
Public Works & Electricity Deptt,
P.B.No. 346, "Vidhana Soudha,"
Bangalore-1.

D.S. PWD (IRR).
No 11124 Date 14/6/68

PWD (IRR) Sec.
No 1930 Dated 27.6.68

Government of Mysore

NO.PWD 6 LBW 66 (Part I)

Mysore Government Secretariat,
"Vidhana Soudha"
Bangalore, dated 26th June, 1968

From

The Secretary to Government of Mysore,
Public Works Department, Bangalore.

To

The Divisional Commissioner,
Mysore Division, Mysore.

Sir,

Subject: Mysore Irrigation (Levy of Water Rate) Rules, 1965 - Certain clarifications.

-:o:-

Adverting to your letter No.IRR 102 C.6804/67-68, dated 22nd November, 1967, I am directed to state that the points raised in regard to the levy of water rate on the first, second and third crops grown in South Kanara District have been carefully considered. Government are of the view that the rate of levy for the crops grown with the aid of water from an irrigation source in the District shall be according to Section 4(2) of the Mysore Irrigation (Levy of Betterment contribution and water Rate) Act, 1957, and the Rules framed thereunder without taking into account rain-fed crop. In ~~order~~ other words, when the first crop is grown with rain water, no water ~~xxxx~~ rate is leviable. When a subsequent crop is grown with the aid of water from an irrigation source, the second crop shall be liable to pay the water rate leviable for the first crop and the subsequent crop grown with the aid of water from irrigation source shall be liable to pay the rate prescribed for the second crop.

2. As regards the suggestion made by you to make certain amendments so as to fix the liability to pay water rate on the cultivating tenants, it is considered that no such amendments are necessary.

Yours faithfully,

(S.K.MOHAN)
UNDER SECRETARY TO GOVERNMENT
PUBLIC WORKS DEPARTMENT (TECHNICAL)

ISSUED
Dated 29.6.68

O/C

Copy of the above is forwarded to.-

1) The Divisional Commissioner, Bangalore
2) The Divisional Commissioner, Belgaum,
3) The Divisional Commissioner, Gulbarga

} for information.

4) All the Deputy Commissioners,
5) Copy to Revenue Department.

Chand;